



NOVA SCOTIA UTILITY AND REVIEW BOARD

ACTIVITY REPORT

JANUARY 1, 2001 - MARCH 31, 2003

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NOVA SCOTIA UTILITY AND REVIEW BOARD

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INTRODUCTION

The Nova Scotia Utility and Review Board was established on December 14, 1992 under the **Utility and Review Board Act**. The **Act** combined four existing boards: the Board of Commissioners of Public Utilities, the Nova Scotia Municipal Board, the Expropriations Compensation Board and the Nova Scotia Tax Review Board. During 1992, the members of the four existing boards were cross-appointed to each board and sat on various hearings. In 1996 the Board was assigned responsibility to hear appeals from the Director of Victim Services. The Board was given jurisdiction with respect to the regulation of natural gas distribution under the **Gas Distribution Act** in 1997 and the regulation of pipelines under the **Pipeline Act** in 1998. In 2000 certain responsibilities from the Alcohol and Gaming Authority were assigned to the Board.

This activity report is submitted under s. 33(1) of the **Utility and Review Board Act** and describes the Board's activities for the period January 1, 2001 to March 31, 2003. The Board's audited financial statements are included in the annual public accounts for the Province of Nova Scotia.

STRUCTURE

Members

The Nova Scotia Utility and Review Board, as of March 31, 2003, was composed of seven full time members.

- John A. Morash, C.A., Chair
- Margaret A. M. Shears, Vice-chair
- John L. Harris, Q.C.
- David J. Almon
- Roland A. Deveau
- Wayne D. Cochrane, Q.C.
- Kulvinder S. Dhillon

Linda D. Garber was a full-time member for the period 1992 - 2002.

Staff

The Board has a number of full-time staff, including an Executive Director, a Regulatory Affairs Officer, an Appeals Officer, an Alcohol, Gaming & Amusements Officer, three Advisory Staff and support staff. Staff of the Board are public servants.

The Regulatory Affairs Officer, the Appeals Officer and the Alcohol, Gaming & Amusements Officer have each been designated as Clerk of the Board. They are responsible for receiving and processing all applications and appeals. They schedule the hearings, respond to questions from the public and handle distribution of Board decisions and orders.

The Advisory Staff deal with matters pertaining to electricity, water and natural gas.

The Motor Carrier division deals with public passenger transportation. The inspection staff are responsible for all physical safety inspections of public passenger vehicles, investigations and enforcement generally. Staff of this division are civil servants.

FUNCTION

The Board is an independent quasi-judicial body which has both regulatory and adjudicative jurisdiction flowing from the **Utility and Review Board Act**. The Board hears applications and appeals under various statutes including the **Public Utilities Act, Gas Distribution Act, Municipal Government Act, Assessment Act, Motor Carrier Act, Expropriation Act, Victims' Rights and Services Act, Insurance Act and Education Act**. In 2000 the Board was assigned jurisdiction to hear matters under the **Liquor Control Act, Gaming Control Act and Theatres and Amusements Act**. A more complete list of statutes under which the Board has jurisdiction is included as Appendix A.

In carrying out its responsibilities the Board travels throughout the province. It holds hearings in or near the municipality affected by the application or appeal. Many of the Board hearings are advertised in the local press. The Board uses telephone conferencing and video conferencing for some hearings. The Board has also conducted some of its hearings in French.

Board hearings are generally open to the public. Most hearings are one to two days in length (although the gas distribution hearing took 49 days). The Board often schedules evening sessions so that members of the public can more easily give evidence to the Board. The Board sits in panels of one, two, three or four members and occasionally has sat with five members. The hearings are recorded.

The Board is required to issue an order in respect of applications and appeals. Final decisions must be in writing and must include reasons for the decision. Orders of the Board may be appealed to the Nova Scotia Court of Appeal upon any question of its jurisdiction or upon any question of law.

The following are brief descriptions of the Board's work. For ease of reference, they have been categorized as regulatory or adjudicative in nature.

Regulatory

1. Public Utilities Act, R.S.N.S. 1989, c.380

The Board exercises general supervision of all water, electrical, steam heat as well as certain bus companies operating as public utilities within the Province. This includes setting rates, tolls and charges; regulations for provision of service; approval of capital expenditures in excess of \$5,000 (\$25,000 in the case of Nova Scotia Power Inc.); and any other matter the Board feels is necessary to properly exercise its mandate. In addition, the Board deals with public complaints which have not been settled by the utility. Nova Scotia Power Inc., an investor owned utility, is the largest public utility regulated by the Board.

The Board is required to set the rates, tolls and charges to be paid for use of the two bridges operated by the Halifax-Dartmouth Bridge Commission in a like manner to that of a public utility.

Appendix B is a list of Regulated Utilities.

Related statutes: **Halifax - Dartmouth Bridge Commission Act**, R.S.N.S. 1989, c.231 as amended; **Nova Scotia Power Privatization Act**, S.N.S. 1992, c.8.

2. Gas Distribution Act, S.N.S. 1997, c.4

The Board has authority to grant franchises for the distribution of natural gas in Nova Scotia. The Board exercises general supervision of the granted franchises.

Related statute: **Pipeline Act**, R.S.N.S. 1989, c. 345

3. Motor Carrier Act, R.S.N.S. 1989, c.292

The Board is responsible for the regulation of all public passenger carriers within the Province and interprovincial carriers operating to or from the Province. Carriers are broadly defined to include not-for-profit carriers, school bus operations, and van pools as well as commercial bus companies. The mandate includes licensing, setting fares, approving routes and stops, approving equipment for use, hearing complaints against carriers, and hearing applications for modification or discontinuance of service. The Motor Carrier Division of the Board also administers a comprehensive safety inspection program for all public passenger equipment.

Related statutes: **Motor Vehicle Transport Act, 1987**, S.C. 1987, c.35 (Federal); **Regional Transit Authority Act**, S.N.S. 1989, c.38

4. **Insurance Act**, R.S.N.S. 1989, c.231

Automobile insurance companies doing business in the Province are required to file their rates with the Board. Rates proposed for high risk drivers through the Facility Association must be approved by the Board. Insurers are not permitted to charge more than the rates filed with or approved by the Board. Additionally, the Board, of its own motion or when requested by the Provincial Secretary (the Minister of Justice), may hold an inquiry into auto insurance rates generally and direct adjustments based on its findings.

5. **Alcohol, Gaming and Amusements** (Jurisdiction since April 2000)

Liquor Control Act, R.S.N.S. 1989, c.260

The Board hears applications for permanent liquor licenses, transfer applications, requests to amend Board imposed conditions of license, etc. The Board also hears disciplinary/sanction matters respecting alleged violations of the **Liquor Control Act** and the **Liquor Licensing Regulations**.

Gaming Control Act, S.N.S. 1994-95, c.4

The Board hears appeals from decisions of the Alcohol and Gaming Authority staff and also hears disciplinary/sanction matters involving gaming licensees.

The Board also hears applications for reinstatement of access to the casinos by individuals who have voluntarily excluded themselves from the casinos.

Theatres and Amusements Act, R.S.N.S. 1989, c.466

The Board hears appeals of film classification decisions of the Alcohol and Gaming Authority, Film Classification Division.

Adjudicative

The Board has authority under a number of statutes to hear appeals from other decision making bodies. In addition, it has original jurisdiction with respect to matters respecting expropriation claims, municipal boundaries and electoral boundaries for municipal and school board elections.

1. **Municipal Government Act**, S.N.S.1998, c.18

The **Municipal Government Act** came into effect on April 1, 1999. It repealed both the **Planning Act** and the **Municipal Boundaries and Representation Act**. Many of the matters which the Board now hears under the **Municipal Government Act** were previously

dealt with under those repealed statutes, including appeals from decisions of municipal councils dealing with rezoning and development agreements and from decisions of development officers respecting subdivision and development permits, as well as applications to establish and amend the boundaries of municipalities and villages, as well as the incorporation and dissolution of towns. The Board is also required to periodically review polling district boundaries and determine the number of councillors.

Related statute: **Shopping Centre Development Act**, R.S.N.S. 1989 c.427.

2. Assessment Act, R.S.N.S. 1989, c.23, as amended

The Board hears appeals from decisions of the Regional Assessment Appeal Courts respecting real property and business occupancy assessments and change of use tax levies.

3. Education Act, S.N.S.1995-96, c.156

The Board sets electoral district boundaries and determines the number of school board members.

4. Expropriation Act, R.S.N.S. 1989, c.156, as amended

Where a property owner and an expropriating authority cannot agree on the compensation to be paid for expropriated land, an application can be made to the Board to set the value.

5. Victims' Rights and Services Act, R.S.N.S. 1989, c.14, as amended

The Board hears appeals from decisions of the Director of Victim Services concerning applications for compensation for certain expenses incurred by victims of crime. The Board was given this jurisdiction in 1994. As of June 8, 2000, appeals are limited to applications for counselling services.

6. Revenue Act, S.N.S. 1995-1996, c. 17, as amended

The Board hears appeals from decisions of the Provincial Tax Commissioner respecting assessments of sales tax, predating the introduction of the HST in April 1997, as well as tobacco tax and gasoline and diesel oil tax assessments.

7. Fire Safety Act, R.S.N.S. 2002, c.6

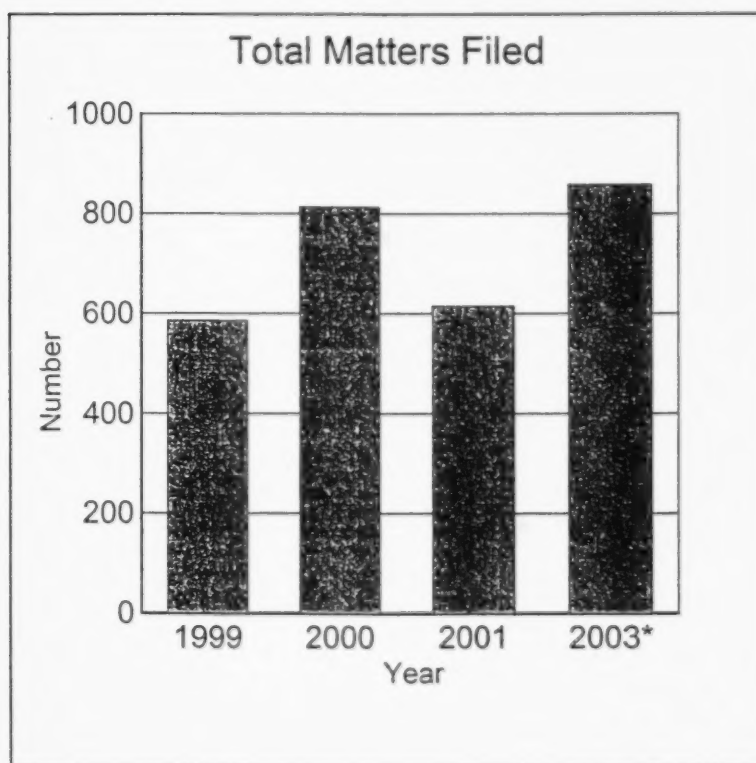
As of February 28, 2003, the Board hears appeals from persons affected by orders of the Fire Marshall's office, including suspension of licenses for contravention of the **Fire Safety Act** or **Regulations** thereunder.

ACTIVITIES

During its years of operation the Board has seen an increase in the number of matters that come before it. The following sections focus on some areas of the Board's activities. This report does not discuss the expropriation compensation applications and the criminal injury appeals heard by the Board, which tend to be specific to the parties and not of general application. The Board's decisions are distributed by subscription and are available on Quicklaw®. Decisions since 1999 are available on the Canadian Legal Information Institute web site (www.canlii.org).

The following graph and table depict the number of applications, appeals and requests for approval for all matters which the Board has received during each calendar year.

APPLICATIONS / APPEALS / REQUESTS FOR APPROVAL JANUARY 1, 2001 - MARCH 31, 2003



* 2003 figures are for the 15 months ended March 31, 2003. All other figures are for calendar years.

APPLICATIONS / APPEALS / REQUESTS FOR APPROVAL

JANUARY 1, 2001 - MARCH 31, 2003

Subject Matter	1999	2000	2001	2002/03
Assessment	98	122	35	59
Planning	15	32	21	39**
Electric Utilities	14	14	7	22
NSPI	46	26	10	17
Water Utilities	135	107	122	140
Public Passenger	129	128	64	99
PP -Temp. Authorities	69	63	39	60
Municipal Boundaries	59	0	2	3
Tax	10	2	0	0
Expropriation	1	1	3	3
School Boards	0	8	0	0
Criminal Injuries	15	10	5	6
Natural Gas	4	21	3	6
Alcohol - jurisdiction since April 2000		172	188	251
Gaming - jurisdiction since April 2000		22	20	24
A & G Other - jurisdiction since April 2000		85	93	124
Theatres & Amusements - jurisdiction since April 2000		0	3	5

*Period January 1, 2002 - March 31, 2003 (15 month period to include stub year of January 1, 2003 to March 31, 2003, hereinafter, the Activity Report will be filed based on fiscal year).

**Total includes one appeal filed under Heritage Property Act.

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Regulation of Nova Scotia Power Inc.

Nova Scotia Power Inc. (NSPI) is a fully-integrated public utility incorporated under the **Nova Scotia Companies Act**. It is the successor to the Nova Scotia Power Corporation ("NSPC"), a crown corporation owned by the Province of Nova Scotia. On January 9, 1992 the government of Nova Scotia announced its intention to sell a controlling interest in NSPC to private investors and thereby privatize the Corporation. The **Nova Scotia Power Privatization Act**, S.N.S. 1992, c.8, provided for the reorganization of NSPC and NSPI and for the transfer of the assets of NSPC, except the sinking fund assets in respect of the public debt of NSPC, to NSPI as a going concern. The **Act** came into force on August 10, 1992 and the privatization process was completed on August 12, 1992.

As of January 1, 1999 NSPI became the principal subsidiary of a holding company, N.S. Power Holdings Incorporated, which is now known as Emera Incorporated.

NSPI generates, transmits and distributes electricity province-wide. At December 31, 2002 the nameplate capacity of its generation plant was approximately 2200 megawatts, the net book value of assets approximately \$2.33 billion, and the 2002 revenues were approximately \$869 million. NSPI serves approximately 450,000 customers including six municipal electric distribution utilities.

The following section summarizes the more important NSPI applications dealt with by the Board in the period 1993 to the end of 2000.

Flexible Market Based Energy Solutions Hearing - 2001

In an application dated December 6, 2000, NSPI applied for approval of a process under which flexible, market-based, integrated energy solutions packages may be developed, approved and offered to customers. A hearing was conducted by the Board from March 19 to 26, 2001. NSPI sought the flexibility to offer "energy solutions packages" (ESPs), tailored to meet the requirements of discrete groups of customers. These packages were to consist of a rate (price) for electricity offered in combination with other value-added products and services attractive to certain customers or market segments. The Board determined in its Decision dated July 9, 2001 that such a process would not be in conformity with the spirit and intent of the **Public Utilities Act** or the practice and policy of the Board.

Pole Attachment Hearing - 2001

NSPI's applied for a new pole attachment rate on September 27, 2000. A public hearing was held from April 23, 2001 to April 25, 2001. NSPI sought Board approval for an increase in its annual pole attachment charge from \$9.60 per pole to \$17.22 per pole. The existing charge came into effect on March 1, 1996. The principal focus of the hearing was on whether NSPI correctly applied the methodology set out in CRTC Decision 99-13. The

interveners challenged the amounts proposed by NSPI for many of the components of the overall pole attachment charge. The Board reviewed each component of the pole attachment charge and make findings as to the cost of each of these components. The aggregate of these costs established the revised total pole attachment charge of \$14.15.

General Rate Hearing - 2002

NSPI filed its general rate application on December 18, 2001, requesting an average increase in rates of 8.9% to meet its proposed revenue requirement, which was largely driven by anticipate high imported coal costs for the 2002 test year. The increase if granted would have provided an additional \$67.1 million from the above the line customers. NSPI also requested approval of a return on rate base of 10.25%, a return on common equity of 11% and an increase in the common equity component of its capital structure from 35% to a range of 40% - 45%. NSPI also requested final approval of the Code of Conduct which governs the relationship between NSPI and its affiliates. That code of conduct had been approved by the Board on an interim basis on March 16, 2001 and had been in effect since September 16, 2001. In its Decision dated October 23, 2002 the Board disallowed \$42.4 million and approved rate increases amounting to an average increase of 3.3%. The Board concluded that an appropriate return on equity was 10.15% with lower and upper bounds of 9.90% and 10.40%. In addition the Board found that there was insufficient justification to increase the common equity component from 35% to 40% at the present time but did allow the utility to increase this component to 40% in the future but subject to review at the next rate application. The Board expressed its concern with respect to the apparent lack of separation between NSPI and Emera and the possible negative impact on ratepayers. It ordered that NSPI and Emera should use different auditing firms and that NSPI's auditing committee should have a different chair than Emera's auditing committee. In addition the Board stated that it would conduct a generic rate hearing in 2003.

Extra Large Industrial Interruptible Rate (ELIIR) Hearing - 2003

In an application dated December 5, 2002, NSPI requested Board approval for a new rate to be made available on an optional basis to customers who:

- Are served at 138 kV and above;
- Are prepared to commit their total load served under this rate (which must be at least 20 MW) to economic interruption;
- Agree to be the first customers to be interrupted (after Generation Replacement Load Following (GRLF)) in the event of supply shortfall; and
- Are prepared to accept some risk and incur penalties for poor performance, as well as rewards for superior performance.

NSPI noted in its application that it was applying for approval of this rate at the request of its largest customer who had advised NSPI that it required approval of the rate in order to secure corporate approval to undertake a significant expansion.

A number of the parties, including representatives on behalf of the Board, participated in three technical conferences prior to the hearing which, according to a number of participants, facilitated a timely exchange of information and contributed to a better understanding of the application. By Order dated January 10, 2003, the Board gave interim approval to the ELIIR pending a hearing and Decision. The hearing took place on January 20 and 21, 2003. The Board rendered its Decision on January 28, 2003.

Under the existing interruptible rates, NSPI can interrupt service for supply reasons only. Under the ELIIR, NSPI can interrupt service for economic reasons as well. The ELIIR rate would serve to reduce NSPI's fuel and purchased power costs by eliminating or reducing the use of its Combustion Turbine ("CT") units, its most expensive generators. In addition the Board noted in its Decision that the consequences of approving the ELIIR on the ratepayers are likely to be no more adverse than the consequences of denying the application and that the consequences of denying the ELIIR application would cause significant harm to the economy of a large part of the Province. In approving the rate the Board added three conditions as follows:

1. Total load will be limited to 275 MW;
2. Economic interruptibility will be limited to .31 GWH per year for each MW of load; and
3. Customers will be required to provide credible evidence that a significant portion of their anticipated usage on the ELIIR is at risk.

Preparations for Generic Rate Hearing - 2003

In an Order dated March 13, 2003 the Board identified six subjects to be addressed at an upcoming Generic Rate Hearing. These included the appropriate standard for cost based rates; the determination of marginal costs; the value of supply interruptibility; the determination of which customer classes should have a customer charge; appropriate price signals for below the line rate classes; the appropriateness of maintaining the 12,000 kWh boundary between Small General customers and the demand-metered General customers. In addition the Order provided a schedule for pre-hearing activities including two technical conferences, the filing of information requests, evidence and rebuttals by the parties, leading up to the commencement of the Hearing on June 2, 2003.

Regulation of Water Utilities

As of the end of March 2003, the Board regulated approximately 57 water utilities, all of which were municipally owned and operated. Each of these water utilities had schedules of rates and regulations approved by the Board. Several of the smaller water utilities had fewer than 100 customers while the Halifax Regional Water Commission had about 72,000 customers.

The Board must approve all amendments to rates and regulations and generally requires a public hearing, especially if the utility is proposing an increase in rates. The Board also investigates customer complaints against utilities. The Board's focus is on whether the utility has followed Board-approved regulations in its dealings with customers.

Water utilities wishing to undertake capital projects must receive Board approval in advance for capital expenditures over \$25,000. The Board assesses, among other things, the need for the proposed project, the reasonableness of the expenditure based on the cost estimate and the supporting technical information, and the financial impact on the utility and its customers of the capital project. In some cases, capital projects are sufficiently large that the utility must apply for an increase in rates in order to be able to pay the funding costs of the project.

Major Water Utility Decisions

During the period of January 1, 2001 to March 31, 2003, the Board issued twenty-two decisions related to water utilities. The majority (seventeen) of these decisions dealt with amendments to utility rates, rules and regulations as a part of a rate application, or as part of a specific request to the Board to propose changes to Utility regulations. A decision dated October 30, 2002 established rates, rules and regulations of a newly formed water utility (Mill Cove Park Water Utility). A decision dated December 20, 2002 established bulk water rates for the Halifax Regional Water Commission. In its decision dated May 6, 2002, the Board found that the Kentville Water Commission was responsible for the water system improvements for affected customers residing on Nichols Avenue. In two separate decisions, the Board ruled on complaints filed by a Municipality against a Town Water Utility relating to fire protection charges (Municipality of the County of Antigonish against the Town of Antigonish Water Utility and the Municipality of the District of Shelburne against the Town of Shelburne Water Utility).

Public Fire Protection Issues - Municipality of the County of Antigonish and the Town of Antigonish Water Utility

In a letter dated August 6, 1997, the Municipality of the County of Antigonish (County) filed a complaint with the Board pursuant to s. 83 of the **Public Utilities Act** which claimed that the Town of Antigonish Water Utility's (Utility) charge to the County for fire protection service was unreasonable or unjustly discriminatory. The Board was involved in attempts to resolve the complaint during 1997, 1998 and 1999 before it became evident that a hearing would be necessary. The Board heard the complaint over six days in November and December 2000.

The Board's decision, dated November 16, 2001 found that the Utility's existing fire protection charge to the Town was unjust and unreasonable and the decision approved a new methodology for the determination of the fire protection charge and the allocation to be used to apply the charge between the Town and the County. In addition, the decision outlined a number of findings and directives in relation to the matter.

Public Fire Protection Issues - Municipality of the District of Shelburne and the Town of Shelburne Water Utility

In a letter dated January 11, 1999, the Municipality of the District of Shelburne (Municipality) filed a complaint with the Board against the Town of Shelburne Water Utility (Utility) in order to appeal the section dealing with the 'Public Fire Protection Rate' of the Utility's Schedule of Rates. The Municipality also wished to appeal the methodology used to calculate the fire protection rate, based upon the number of hydrants in each area. The Board heard the application on January 10, 2002.

In its decision dated August 9, 2002, the Board found that the public fire protection rate charged by the Utility to the Municipality was excessive and was based upon an inappropriate allocation process. In its interim order dated August 9, 2002, the Board further directed that an independent consultant appointed by the Board review the public fire protection rate and provide a Report recommending an appropriate allocation process for the Utility and the Municipality to review.

In its final order, dated February 14, 2003, after the above mentioned Report was completed and reviewed and its recommendations were accepted by the parties involved, the Board specified a methodology to determine the fire protection charge to be paid to the Utility by both the Town of Shelburne and the Municipality of the District of Shelburne.

Late Payment Charges by Utilities

In a letter dated November 9, 2001, addressed to all regulated utilities, the Board advised that it had recently approved a Nova Scotia Power Inc. (NSPI) "regulation which provides that there be one stated due date for bills and an interest charge of 1.5% per month (19.56% per annum) on outstanding amounts beyond the due date". The letter stated that this regulation was approved as it appears to conform with the rate of interest provisions of the **Criminal Code**, which were reviewed by the Supreme Court of Canada in Garland v. Consumers' Gas Co., [1998] 3 S.C.R.112. In the letter, the Board encouraged each

utility to review its Schedule of Rates and Schedule of Rules and Regulations and make the necessary changes to conform to the ruling by the Supreme Court of Canada.

Some water utilities dealt with this issue as part of a rate application, while other utilities made a separate application to the Board for amendments to its schedule of rates and schedule of rules and regulations dealing specifically with late payment charges. In such cases, if after reviewing the information provided the Board was satisfied that the proposed amendment appeared to adequately address the issues raised in the Garland decision, an Order was issued approving the replacement of the late payment charge with an interest charge on outstanding amounts beyond a stated due date.

New Water Utilities

A water utility is only subject to regulation by the Board if it provides water "directly or indirectly to or for the public". If so, it is recognized by the Board and regulated as a "public utility". From time to time the Board receives applications to approve rates and regulations from the owners of water systems which have not previously been regulated under the **Public Utilities Act**. If the Board is satisfied that the water system in question qualifies as a "public utility" the Board usually gives interim approval of rates and regulations for the utility pending final approval without the necessity of a public hearing or notice.

During the period 2001-2003 the Board granted interim approval of rates and regulations for the newly recognized public utility of Mill Cove Park (2002).

Water Treatment and Quality

The Board has noted an increased number of capital expenditure requests in recent years for approval of items related to improving water quality. These requests are frequently followed by applications for rate increases due to the large capital costs of some of these projects. It should be pointed out that the Department of Environment and Labour is charged with the responsibility to establish and enforce health and safety regulations with respect to public drinking water. That Department issued a comprehensive drinking water strategy in October 2002 which sets out an action plan in order for water utilities to achieve full compliance with environmental standards by the target date of Spring 2002. It is therefore anticipated that the trend of focussing on capital projects related to water quality improvements will continue. The Board has an indirect role in the regulation of water quality as the **Public Utilities Act** authorizes the Board to investigate the safety and adequacy of service by a public utility. However, the focus of the Board's regulatory power over public utilities, including water utilities, is the regulation of rates and regulations and the general supervision of the activities of utilities so as to ensure sound management and the provision of reasonably safe and adequate service at reasonable rates.

Regulation of Natural Gas

Gas Distribution Act and Regulations

The **Gas Distribution Act**, revised in 2002, provides a framework for the "orderly development and operation of a gas delivery system" in Nova Scotia. The principal duty of the Board under the **Act** is to grant gas distribution franchises and grant licenses to market natural gas. Franchise awards are subject to the approval of the Governor in Council. The Board must be satisfied that the granting of a franchise is in the public interest. Among the factors that the Board is directed to consider on a franchise application is the demand for natural gas service, the availability of natural gas, the economic feasibility of the proposal and the financial capability of the applicant.

The **Gas Distribution Regulations (Nova Scotia)**, made by the Governor in Council in 1998, set the framework within which a franchise holder must operate. These **Regulations** were amended in 2002 removing mandatory targets and making it possible to provide bundled service.

The **Board Gas Distribution Regulations** also were amended in 2002 and establish the parameters for making an application under the **Gas Distribution Act** to the Board.

The **Board Gas Marketers Regulations** were made in 2003 based on the results of three technical conferences. These establish the requirements for making an application for a Gas Marketers Licence to the Board.

In an application, October 26, 2001, Sempra asks that the Board consider the surrender of the franchise in accordance with **Section 19** of the **Gas Distribution Regulations**.

Sempra and the Province (represented by the Nova Scotia Petroleum Directorate) negotiated an agreement dated October 25, 2001 concerning the proposed terms and conditions for surrender. The agreement covered such areas as identification of assets; valuation of assets; maintenance of assets; and disposal of assets. The agreement was conditional on acceptance by the Board of the recommended terms and conditions of surrender and acceptance of the agreement by Halifax Regional Municipality (HRM), since most of the assets in question are located in or on HRM property.

A public hearing was held December 3, 2001 with the Board's Decision rendered February 26, 2002. This Decision accepted Sempra's franchise surrender subject to the terms and conditions of the negotiated agreement between themselves and the province.

August 16, 2002, franchise applications were received from Heritage Gas Ltd. for northern and eastern areas of the province, and from Strait Area Gas Corp. for the area around the Strait of Canso. The Board conducted public hearings between October 7, 2002 and October 18, 2002, rendering its Decision February 7, 2003 followed by Governor in Council approval February 21, 2003.

The Board's Decision, pursuant to Section 8 of the **Gas Distribution Act**, granted a full regulation class franchise for a period of 25 years to Heritage Gas Limited, for the Counties of Cumberland, Colchester, Pictou and Halifax, the Municipality of the District of East Hants and the Goldboro area of Guysborough County, subject to the approval of the Governor in Council, and terms and conditions. Strait Area Gas Corp. was granted, in principle, a full regulation class franchise for a period of 25 years covering areas in Inverness County, Antigonish County, Guysborough County (excluding Goldboro) and Richmond County, subject to the filing of an executed BOOT agreement which is acceptable to the Board, and this approval to grant the franchise, on an "in principle" basis, was made subject to the approval of the Governor in Council, and specific directives.

Pipeline Act and Regulations

The **Pipeline Act** directs the Board to exercise control over the manner in which gas and oil pipelines and gas plant facilities are constructed, tested, maintained and operated. No person shall construct a pipeline or facility except pursuant to a permit issued by the Board and no person shall operate a pipeline or facility except pursuant to a license issued by the Board. Permits and licenses may contain such terms and conditions as the Board considers appropriate or as are prescribed by the **Regulations**.

The **Pipeline Regulations** and the **Gas Plant Facilities Regulations** establish the parameters for the construction, operation, maintenance and abandonment of a pipelines and gas plant facilities.

Underground Hydrocarbons Storage Act and Regulations vest the responsibilities for the regulation of construction, operation, maintenance and abandonment of underground hydrocarbons storage facilities with the Board.

Regulation of Public Passenger

The Motor Carrier Division provides public passenger vehicle licensing, inspection and enforcement services pursuant to the **Motor Carrier Act**. School buses are classified as public passenger vehicles and along with all other public passenger vehicles are inspected twice annually by the inspection staff of the Motor Carrier Division. In addition to inspecting public passenger vehicles, the staff inspects commercial vans (since January 1, 2003) and certain passenger vehicles which do not carry passengers for gain. As of March 31, 2003, the Division employed 10 inspectors and had an office staff of four. The Motor Carrier Division conducted more than 4500 separate public passenger vehicle inspections in 2003. The vehicles were a combination of school, transit, over the road buses, commercial vans, amphibious and non-profit vehicles.

Traditional bus services, such as scheduled passenger, charter and school bus services have all undergone change. Notably Acadian Lines Limited, Nova Scotia's largest supplier of scheduled inter-city bus service, applied for and was granted several adjustments to its scheduled service time table, including a request to abandon service between Digby and Yarmouth.

In August 2000, DRL Vacations Ltd. was awarded the school bus contract, providing service to students of the Annapolis Valley Regional School Board resident in Kings County. DRL Vacations Ltd. replaced the former contractors who were Perry Rand Limited, W. C. Rooney Transportation Limited and Gerald N. Bezanson o/a G. N. Bezanson Trucking.

The charter market continued to experience growth up to September 2001. The tragic attack on the World Trade Centre, Twin Towers, September 11, 2001 had an immediate negative impact on the charter bus industry in Nova Scotia, decreasing the number of visitors to the province by cruise ship, road and air. This decline continued until approximately July 2002, after which tourism, in particular in the Halifax Area and mainland Nova Scotia stabilized. The industry experienced a modest growth during 2003, but has not yet returned to the pre-2001 activity levels.

Between April 1, 2000 and March 31, 2003 the Board has received 257 applications for new Motor Carrier and Extra-Provincial licenses and/or amendments to existing licenses. The Board also issued 162 single trip permits and 158 temporary authorities during the same period.

The Motor Carrier Act Regulations were amended in 2002 and the new Commercial Van Regulations became effective January 1, 2003, as well as amendments to the Motor Carrier Fees Regulations.

The Commercial Van Regulations established new safety, insurance and operational standards for public passenger vehicles that have a seating capacity of eight passengers or less, excluding the driver, and that provides a;

- (a) daily, weekly, or other regular service, or
- (b) charter or tour service

that enters or departs any municipality, but for greater certainty, does not include a commuter van or courtesy van or taxicab (all of which are defined in these Regulations).

The Commercial Van Regulations are safety regulations, not economic in nature. The Motor Carrier Division, who participated in the development of these regulations, has to date licensed more than 40 new commercial van carriers and has assumed responsibility for the semi-annual inspection, administration and monitoring of the industry.

The Motor Carrier Division has continued its participation in the Atlantic Provinces, school bus bulk purchase program. This endeavour results in hundreds of thousands of dollars in annual savings on the purchase of approximately 65 school buses for Nova Scotians.

The Board continues to license amphibious vehicles, which service the tourism industry in the Halifax Regional Municipality. Currently, two operators provide four (4) amphibious vehicles in this market. There are to date no other amphibious operators in Atlantic Canada.

Planning Appeals

The **Municipal Government Act** permits appeals to the Board from decisions of municipal councils respecting land-use by-law amendments, rezonings and development agreements and from development officer decisions refusing to issue development permits or to approve plans of subdivision. Prior to the coming into effect of the **Municipal Government Act** on April 1, 1999 such appeals were made under the **Planning Act**.

The following tables and graphs provide some information on the number and type of planning appeals filed with the Board.

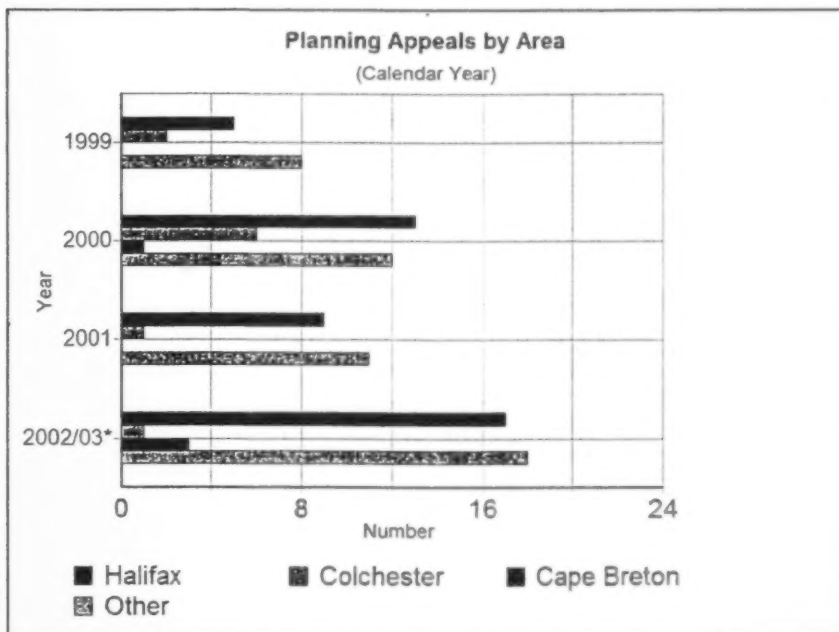
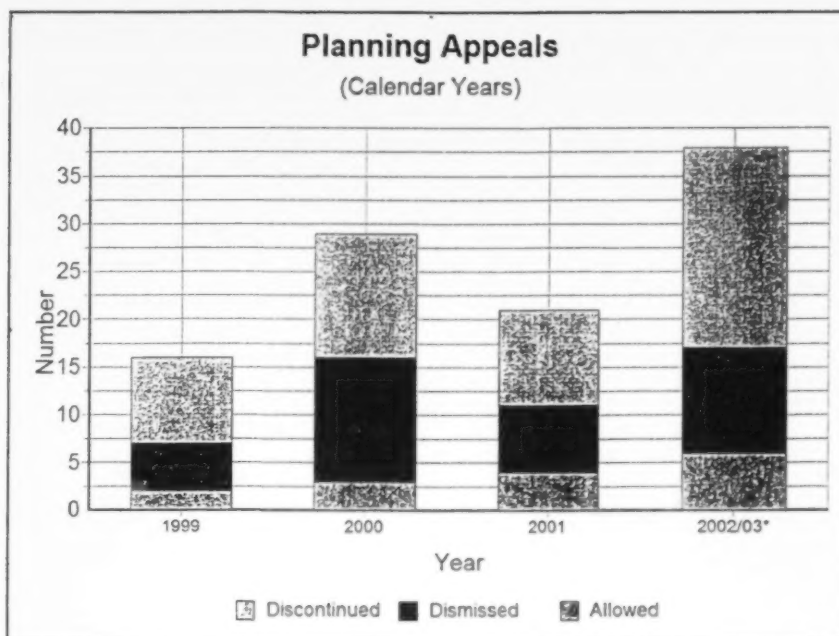
Planning Appeals Filed, Allowed, Dismissed and Discontinued by Year

Year Filed	Total	Allowed	Dismissed	Discontinued
1999	15	2	3	10
2000	32	4	13	15
2001	21	4	7	10
2002/03**	39*	6	11	21

* one matter still outstanding

** Period January 1, 2002 - March 31, 2003 (15 month period to include stub year of January 1, 2003 to March 31, 2003, hereinafter, the Activity Report will be filed based on fiscal year).

Breakdown of planning appeals by outcome per year

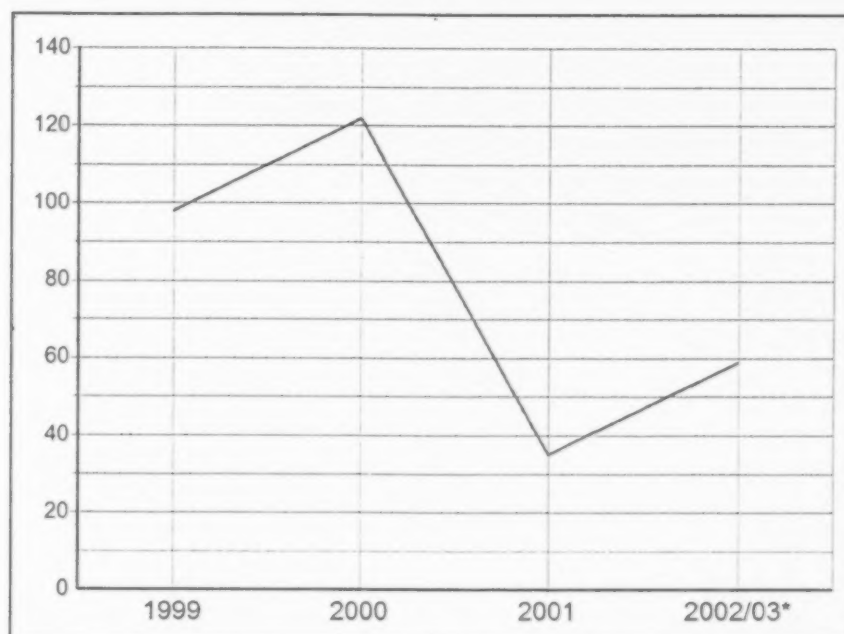


Note: *Period January 1, 2002 - March 31, 2003 (15 month period to include stub year of January 1, 2003 to March 31, 2003, hereinafter, the Activity Report will be filed based on fiscal year).

Assessment Appeals

The Board hears appeals under the **Assessment Act** from decisions of the Regional Assessment Appeal Courts (R.A.A.C.). Assessments are revised yearly by the Director of Assessment. The number of appeals has varied from year to year. Most of the appeals filed with the Board are with respect to valuation. The R.A.A.C. and the Board also have jurisdiction to consider late appeals, adding to or striking from the assessment roll, and changing the classification of property. During the period covered by this Activity Report, the first appeals were filed with the Board following the amendment of s.86 of the **Assessment Act**, which changed the information required to be contained on a notice of appeal. The following graph depicts the assessment appeals filed with the Board per year.

Number of Assessment Appeals Filed each calendar year



Note: *Period January 1, 2002 - March 31, 2003 (15 month period to include stub year of January 1, 2003 to March 31, 2003, hereinafter, the Activity Report will be filed based on fiscal year).

Review of Municipal Polling Districts and School Board Electoral Districts

The **Municipal Government Act** requires the Board to periodically review the number and boundaries of municipal polling districts and the number of councillors. The Board must consider the number of electors, relative parity of voting power, population density, community of interest and geographic size. Prior to the coming into effect of the **Municipal Government Act** on April 1, 1999, such hearings were conducted under the **Municipal Boundaries and Representation Act**.

The **Education Act** requires the Board to conduct similar periodic reviews of the boundaries of electoral districts and the number of school board members of each school board in the Province.

Applications for the next periodic review of municipal polling districts must be filed by the end of 2006. Applications for the next school board reviews must be filed by 2007.

The Board entertained a number of significant municipal boundary applications in the period covered by this Activity Report.

In an application filed December 4, 1998, approximately 140 ratepayers of the Municipality of the District of Chester applied to the Board to incorporate municipal polling district No. 3 (which includes the Village of Chester) as a town. The application was opposed by the Municipality. Following a hearing held April 20, 1999, the Board issued a decision dated August 26, 1999 granting a preliminary order setting a hearing date. The Municipality's appeal of the Board's decision was dismissed by the Nova Scotia Court of Appeal on January 28, 2000. A further decision respecting procedural issues was released by the Board on July 14, 2000.

The hearing on the merits of the application was held in Chester, Nova Scotia on January 15-26, February 1 and October 15, 2001. Following its review of the evidence, including the results of a plebiscite conducted by the Municipality, the Board released its decision dated June 28, 2002 granting town status.

On November 5, 2002, Bill No. 146 was introduced in the Legislature to amend the **Municipal Government Act**. The Bill received Royal Assent on November 28, 2002. The amendments require the Board to direct the taking of a plebiscite in all future applications for town incorporation. The Board must dismiss any application in the event of a negative response to the plebiscite. The amendments further directed the taking of a plebiscite in the Chester matter. A plebiscite was held on February 22, 2003, resulting in approximately 73% of the ballots cast opposing town incorporation. Pursuant to **s.388A(5)**, as amended, the negative vote voided the order of the Board granting town incorporation.

In another application involving town status, on July 12, 2002, the Board dismissed, at the preliminary hearing stage, an application by the Middleton Citizen's Committee to dissolve the Town of Middleton.

On January 8, 2001, the Board held another hearing in Parrsboro to consider an application by the Municipality of the County of Cumberland to annex approximately 930 acres of Parrsboro, including the southwest portion of the Town and Partridge Island. While the Municipality was neutral as to the outcome of the proceedings, it brought the application on behalf of a group of residents in the affected area. In a decision dated March 19, 2001, the Board dismissed the application.

In a hearing for a preliminary order held in Antigonish, Nova Scotia on September 6, 2001, the Board canvassed various procedural issues concerning consolidated applications by the Town of Antigonish to annex approximately 5,000 acres of the Municipality and by the Municipality of the County of Antigonish to amalgamate the Town and the Municipality. The Board ordered the preparation of studies by the parties respecting the financial and social implications of the applications. The Board conducted numerous other procedural hearings over the course of the next 18 months. As of March 31, 2003, a hearing is scheduled for October 2003.

SUPPORT OF OTHER AGENCIES

The Nova Scotia Police Commission shares space at the Board's offices and the Board provides financial services, computer systems and some administrative support to the Commission.

The Motor Carrier Division plays an active role in the School Bus Bulk Purchase Program along with the Department of Education.

The Board provided financial services, computer systems support, limited administrative support and at times office space to the Freedom of Information and Protection of Privacy Review Officer until January, 2000.

CONTACTING THE BOARD

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Appendix A - List of Related Statues

Assessment Act, R.S.N.S. 1989, c.23
Education Act, S.N.S. 1995-96, c.1
Expropriation Act, R.S.N.S. 1989, c.156
Fire Safety Act, R.S.N.S. 2002, c.6
Gaming Control Act, S.N.S. 1994-95, c.4
Gas Distribution Act, S.N.S. 1997, c.4
Halifax-Dartmouth Bridge Commission Act, R.S.N.S. 1989, c.231
Heritage Property Act, R.S.N.S. 1989, c.199
Insurance Act (auto insurance only), R.S.N.S. 1989, c.231
Liquor Control Act, R.S.N.S. 1989, c.260
Motor Carrier Act, R.S.N.S. 1989, c.292
Motor Vehicle Transport Act, 1987, S.C. 1987, c.35 (Federal)
Municipal Boundaries and Representation Act, R.S.N.S. 1989, c.298
Municipal Government Act, S.N.S.1998, c.18
Nova Scotia Power Privatization Act, S.N.S. 1992, c.8
Petroleum Resources Removal Permit Act, S.N.S. 1999, c.7
Pipeline Act, R.S.N.S. 1989, c.345
Planning Act, R.S.N.S. 1989, c.346 as amended
Public Utilities Act, R.S.N.S. 1989, c.380
Revenue Act, S.N.S. 1995-96, c.17
Shopping Centre Development Act, R.S.N.S. 1989 c. 427
Theatres and Amusements Act, R.S.N.S. 1989, c.466
Underground Hydrocarbons Storage Act, S.N.S. 2001, c.37
Utility and Review Board Act, S.N.S. 1992, c.11,
Victims' Rights and Services Act, R.S.N.S. 1989, c.14

Appendix B - List of Regulated Utilities

Electric Utilities

Nova Scotia Power Incorporated
Antigonish Electric Utility
Berwick Electric Light Commission
Canso Electric Light Commission
Lunenburg Electric Utility
Mahone Bay Electric Utility
Riverport Electric Light Commission

Water Utilities

Cape Breton Regional Municipality Water Utility
Halifax Regional Water Commission
Town of Amherst Water Utility
Town of Annapolis Royal Water Utility
Municipality of the County of Antigonish (Fringe Area, St. Andrews, Lr. South River)
Town of Antigonish Water Utility
The Village Commissioners of Baddeck Water Utility
The Village Commissioners of Bible Hill Water Utility
Town of Bridgetown Water Utility
Bridgewater Public Service Commission
The Village Commissioners of Canning Water Utility
Town of Canso Water Utility
Cornwallis Park Water Utility
Town of Digby Water Utility
Dingwall Water Utility
East Hants Regional Water Utility
Falmouth Water Utility
Granville Ferry Water Utility
Greenwood Water Utility
Town of Hantsport Water Utility
Hazel Hill Water Utility
Inverness County Water Utility
Kentville Water Commission
The Village Commissioners of Lawrencetown Water Utility
Little Narrows Water Utility
Town of Lunenburg Water Utility
Town of Mahone Bay Water Utility
Margaretville Water Utility
Town of Middleton Water Utility
Mill Cove Park Water Utility
Town of Mulgrave Water Utility
Neil's Harbour/New Haven Water Utility
Town of New Glasgow Water Utility
The Village Commissioners of New Minas Water Utility
Town of Oxford Water Utility
Town of Parrsboro Water Utility

Pictou County Water Utility
Town of Pictou Water Utility
Town of Port Hawkesbury Water Utility
Village of Port Williams Water Utility
Region of Queens Water Utility
Richmond County Water Utility
Town of Shelburne Water Utility
Sherbrooke Water Utility
Shubenacadie Water Utility
Town of Springhill Water Utility
Town of Stellarton Water Utility
Town of Stewiacke Water Utility
The Village Commissioners of St. Peter's Water Utility
The Village Commissioners of Tatamagouche Water Utility
Three Mile Plains/Wentworth Water Utility
Town of Trenton Water Utility
Town of Truro Water Utility
Town of Westville Water Utility
Town of Wolfville Water Utility
Town of Windsor Water Utility
Town of Yarmouth Water Utility